

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI (COURT NO. IV)**

Company Petition No. IB-1581(ND)2019

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016).

AND IN THE MATTER OF:

Roofs and Ceilings (I) Pvt. Ltd.Applicant/Operational Creditor

Versus

Dugal Associates Pvt. Ltd. Respondent/Corporate Debtor

Pronounced on: 11.12.2019

CORAM

**DR. DEEPTI MUKESH,
HON'BLE MEMBER (J)**

**SHRI HEMANT KUMAR SARANGI
HON'BLE MEMBER (T)**

For the Applicant : Shri Jasdeep Singh Dhillon, Advocate.

For the Respondent : Ex-parte.



MEMO OF PARTIES

Roofs and Ceilings (I) Pvt. Ltd.

Having its registered office at:

2nd Floor, Gandhi Chhaya,
Opp. Servoday Hospital, LBS
Marg, Ghatkopar (W)
Mumbai-400 086.

...Applicant/ Operational Creditor

Versus

Duggal Associates Pvt. Ltd.

Having its registered office (w.e.f. 28.01.2019) at: F-
38/2, Near Maruti Service Station,
Okhla Industrial Area,
Phase-II, New Delhi,
South Delhi, Delhi-110020.

And earlier registered office at-
D-242, Krishna Park,
Devli Park, Khanpur,
New Delhi-110062.

...Respondent/ Corporate Debtor

ORDER

Per Dr. Deepti Mukesh, Member (Judicial)

This application is filed by M/s. Roofs and Ceilings (I) Pvt. Ltd. (for brevity the applicant) through Mr. Nishadh Sudhir Gandhi duly authorized by the Board Resolution dated 15.02.2019 U/s. 9 of the Insolvency and Bankruptcy Code, 2016 read with Rules 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, with a prayer to initiate the Corporate Insolvency Resolution Process against M/s. Dugal Associates Pvt. Ltd. (for brevity the Corporate Debtor).

2. The applicant is a Company incorporated as private limited company on



30.4.2003 under the provisions of Companies Act, 1956 having CIN U26950MH2003PTC140226. The applicant is engaged in the business of Aluminum Sheets, Roofing Sheets, Galvanized Sheets, False Ceilings, Roofing, Roof Light Sheets, Roofing Material Dealers, Aluminium Roofing Sheets Dealers, Roofing Sheets and takes the work orders for various kinds of roofing & ceiling works.

3. The Corporate Debtor is Company incorporated as private limited company under the provisions of the Companies Act, 1956 having CIN U26960DL1998PTC092946 on 26.03.1998 having registered office at D-242, Krishna Park, Devli Park, Khanpur, New Delhi-110062 as reflected in master data of the MCA website. The authorised capital of the CD is Rs. 5,00,000/- and paid up capital of the CD is Rs.5,00,000/-.
4. It is stated that the Corporate Debtor approached the Operational Creditor for the supply of material for roofing etc. for Carpet Expo Mart, B.I.D.A Carpet City, Bhadohi, Uttar Pradesh and accordingly, issued a Purchase Order No. 37 dated 18th October, 2016. Pursuant to the said purchase order, the applicant supplied the materials as mentioned in the said purchase order at the said site and the invoices for the same were raised, by the applicant.
5. The applicant states that as per work done, various invoices for total of Rs.1,66,57,721.95 (Rupees One Crore Sixty Six Lakh Fifty Seven Thousand Seven Hundred Twenty One and paise Ninety Five only) were raised by applicant and delivered to CD which were duly received by the CD



without any complaint or dispute with respect of the goods. The CD had issued certificate to that effect confirming the execution of job for an amount of Rs.1,66,57,00.000/- though part payment was made leaving balance of Rs.28,26,817.95/-.

6. The Operational Creditor, on several occasions, requested the Corporate Debtor to make the payment of the said outstanding amount of Rs.28,26,817.95/- towards principal amount, along with interest to the Operational Creditor. The Corporate Debtor vide email dated 27th February, 2018 has admitted the delay and default in making payments and had stated that they shall be clearing the dues at the earliest. However, despite the same the Corporate Debtor failed, neglected and defaulted to make the payment of the said outstanding amount along with interest.
7. Since the Corporate Debtor failed and neglected to make the payment of the said outstanding amount alongwith the interest the Operational Creditor was constrained to issue a demand notice dated 28th May. 2018 as per Form 3 and under sub-section (1) of section 8 of the Insolvency and Bankruptcy Code, 2016 to the Corporate Debtor calling upon the Corporate Debtor to pay an amount of Rs. 28,26,817.95/- towards principal and Rs.14,03,853.95/- towards interest which aggregates to the total outstanding being Rs.42,30,671.90 within 10 days from the receipt of the said notice, by the Corporate Debtor.
8. The demand notice was sent at registered address returned with remark 'not found ' but the envelope served at site address at Bhadohi (U.P.) was



duly delivered. The track report for the same is annexed. The Corporate Debtor was also served with notice u/s. 8 on its email address as registered with MCA website. The copy of same is annexed which is stated as delivered and read.

9. Despite the service of the demand notice in terms of the Insolvency & Bankruptcy Code, 2016, the Corporate Debtor has neither replied to the Demand Notice nor has made any payment of the said outstanding amount of Rs.42,30,671.90/- to the Operational Creditor. Hence, the Operational Creditor filed the present application.
10. The Corporate Debtor was duly served at the addressed reflected on MCA Website at new address. The applicant states that Corporate Debtor changed its address on 28.01.2019 as per Form No. INC-22, which is annexed with application. The Corporate Debtor was also served the dasti which was duly received by one Mr. Ashish Gupta stating to be Assistant Manager of CD.
11. In spite of service of application and thereafter copy of order passed by the Bench, none appeared for CD and the matter was ordered to proceed ex-parte on 29.07.2019.
12. After hearing the counsel for the applicant and the admission in form of email from the CD with respect to the debt falling due the default is proved beyond doubt. The CD has neither replied nor appeared for defending the application and thus application deserves to be admitted.
13. The registered office of corporate debtor is situated in New Delhi and



therefore this Tribunal has jurisdiction to entertain and try this application.

14. The present application is not barred by limitation as the date of default is 28.07.2017 as per part IV of Form 5 and application is filed on 28.09.2019.
15. The applicant has filed an affidavit in compliance of Section 9(3)(b) stating no notice of dispute was raised from CD by the applicant. The applicant has attached the copy of bank statement in compliance with the requirement of Section 9(3)(c) of the IBC 2016.
16. In the given facts and circumstances, the present application is complete and the Applicant is entitled to claim its dues, establishing the default in payment of the operational debt beyond doubt, and fulfilment of requirements under section 9(5) of the Code. Hence, the present application is admitted.
17. The Operational Creditor has not proposed the name of any Interim Resolution Professional. In view of the same, this Bench appoints Mr. Pradeep Upadhyay IP Registration NO. IBBI/IPA-001/IP-P-01415/2018-2019/12233 having email address capuaindia@gmail.com Mobile No. 9811130194 as the IRP of the Corporate Debtor. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the Code.
18. We direct the Operational Creditor to deposit a sum of Rs.2 Lakh with the Interim Resolution Professional to meet out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within



three days from the date of receipt of this order by the operational Creditor.

The amount however be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the operational Creditor.

19. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor prohibiting all of the following:

- a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 - d) The recovery of any property by an owner or successor where such property is occupied by or in the possession of the corporate debtor. However, during the pendency of the moratorium period in terms of Section 14(2) and 14(3) the following is allowed as extracted hereunder:
- (2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- (3) The provisions of sub-section (1) shall not apply to—
- a) such transaction as may be notified by the Central Government in consultation with any financial sector Regulator.



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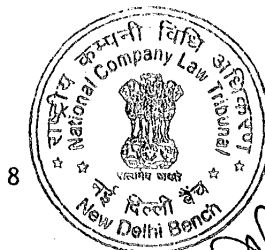
- b) a surety in contract of guarantee to a Corporate Debtor.
- 4) The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process, provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

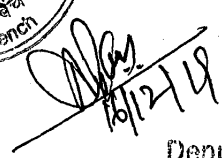
In terms of above order, the Application stands admitted in terms of Section 9(5) of IBC, 2016.

20. A copy of the order shall be communicated to the Applicant as well as to the Corporate Debtor above named by the Registry. Further the IRP above named be also furnished with copy of this order forthwith by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar NCLT.


(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)


(DR. DEEPTI MUKESH)
MEMBER (JUDICIAL)




16.12.19
Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. IV, NEW DELHI**

(IB)- 2105(ND)/2019

IN THE MATTER OF:

M/s Structural Protection and Rehabilitation CompanyApplicant

Vs

Dugal Associates Pvt. Ltd.Respondent

SECTION:

Under Section 9 of Insolvency & Bankruptcy Code

Order delivered on 11.12.2019

Coram:

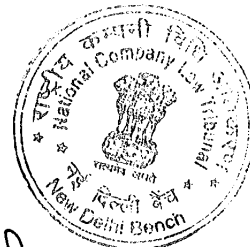
**DR. DEEPTI MUKESH
HON'BLE MEMBER (Judicial)**

**SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (Technical)**

PRESENTS:

For the Applicant(s) : Mr. Jasdeep Singh Dhillon, Adv.

For the Respondent : -



[Handwritten signature]



ORDER

Against this corporate debtor M/s Dugal Associates Pvt. Ltd., C.P. No. (IB)-1581/(ND)/2019 has already been admitted on 11.12.2019 and the CIR Process is initiated. Since two CIRP order cannot be passed against the same corporate debtor, the applicant in the present application is permitted to file its claim before the IRP which shall be considered in accordance with law. It is made clear that if for some reason the order dated 11.12.2019 is set aside by the National Company Law Appellate Tribunal or by Superior Court then liberty is granted to the applicant to file appropriate application for revival of the application in the present case.

C.P. (IB)-2105/(ND)/2018 stands disposed of in terms of above order.

(HEMANT KUMAR SARANGI)
MEMBER (T)

(DR. DEEPTI MUKESH)
MEMBER (J)



16.12.19
Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003